

**WAUKESHA COUNTY  
MINUTES OF THE PARK AND PLANNING COMMISSION  
ADMINISTRATION CENTER, ROOM AC 255/259  
THURSDAY, JUNE 16, 2011, 1:00 P.M.**

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**CALL TO ORDER**

Bill Mitchell, Chairperson, called the meeting to order at 1:00 p.m.

Commission

Members Present:	Bill Mitchell	Bob Peregrine	Walter Kolb	Gary Goodchild
	Jim Siepmann	Fritz Ruf	Pat Haukohl	

Commission

Members Absent: None

Staff

Members Present: Jason Fruth, Planning and Zoning Manager  
Elfriede Sprague, Clerk Typist III  
Peggy Tilley, Senior Land Use Specialist  
Amy Barrows, Senior Land Use Specialist

Guests Present:

Robert and Jeannine Schmidt - CS-1007C  
Bob Buchta – Oliver Construction - CU-655B  
Bob Schowalter - CS-1007C  
Tom Halquist - SCU-839A

**CORRESPONDENCE:**

None.

**MEETING APPROVAL:**

None.

**MINUTES**

Approval of the May 19 and June 2, 2011 minutes

*After discussion, Mrs. Haukohl moved, seconded by Mr. Ruf, and carried unanimously for approval, of the May 19, 2011 minutes.*

*After discussion, Mr. Ruf moved, seconded by Mr. Peregrine, and carried unanimously for approval, of the June 2, 2011 minutes, as corrected.*

**PUBLIC COMMENT:**

Chairman Mitchell asked if anyone from the audience wished to address the Commission? With no public comment, he moved to the next item on the agenda.

**SCHEDULED MATTER**

1:00 p.m. Report of Nominating Committee and Election of Officers for the Park and Planning Commission

<b>Chairperson</b>	<b>Gary Goodchild</b>
<b>Vice-Chairperson</b>	<b>Robert Peregrine</b>
<b>Secretary</b>	<b>Patricia Haukohl</b>

*After discussion, Mrs. Haukohl moved, seconded by Mr. Ruf, and carried unanimously for approval, of the officers as reported.*

- **CU-655B (Robert Kern) Town of Genesee, Sections 21 and 22**

Mr. Fruth presented the “Staff Report and Recommendation” dated June 16, 2011, and made a part of these Minutes. He pointed out the location of the property in Sections 21 and 22, in the Town of Genesee on the aerial photograph and indicated the request is to amend the existing Conditional Use Permit to allow a land transfer and a portion of an existing outbuilding to be converted to office space for the Kern Family Foundation.

He explained that in 2010, the owner proposed to convert the attached garage on the “Stone Manor” to office space for the Kern Family Foundation. However, due to the cost of the improvements required by the State Department of Commerce and the limited amount of space, the owner has since decided against the proposed improvements. The conditions of the Conditional Use were not complied with and a Conditional Use Permit was not issued. The petitioner is now proposing to transfer a 0.26 acre portion of the Kern residence property to the Bosmans’ property and a 0.26 acre portion of the Bosmans’ property to the Kern property and to convert a portion of the northerly-most outbuilding, a large pole like building with overhead doors, on the Kern residence property to office space for the Kern Family Foundation. The proposal is to remove the overhead doors and have them replaced with both glass doors and windows. Since this request is an amendment to the Conditional Use under the Private Clubs and Resort category, the storage building that the petitioner is proposing to convert to office space must be a minimum of 50 ft. from the lot lines. The purpose of the proposed transfer is to provide the necessary offsets needed for approval and will make the storage building in question 53 ft. from the lot line. The transfer will not alter the lot size of either property.

Mrs. Haukohl expressed concern that the Bosmans would still have access to their property and asked if there was a recorded Access/Easement Agreement? Mr. Fruth replied he did not know however, they already have access through the Kern’s property and the proposal is for no change to that arrangement. Robert Buchta of Oliver Construction explained that the Bosmans have access from the cul-de-sac. He did not know if there was a recorded agreement but confirmed that all current agreements would remain unchanged. To protect both petitioners, the Commission felt it would be appropriate to require a recorded agreement. Chairman Goodchild inquired if the land transfers would require a Certified Survey Map. Mr. Fruth responded that they did not, as it is just an exchange of lands.

*After discussion, Mrs. Haukohl moved, seconded by Mr. Peregrine, and carried unanimously to amend Condition No. 9 to read:*

9. *Robert and Patricia Kern shall maintain adequate easement(s) through their lands to be used for ingress and egress to the principal residence on the Bosman’s property. An Access/Easement Agreement shall be recorded with the Waukesha County Register of Deeds office.*

*After discussion, Mrs. Haukohl moved, seconded by Mr. Siepmann, and carried unanimously for approval, as conditioned in accordance with the “Staff Report and Recommendation” and with Condition No. 9 amended as above. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **PO-11-GNT-07 (Kern Family Foundation) Town of Genesee, Sections 21 and 22**

Mr. Fruth presented the “Staff Report and Recommendation” dated June 16, 2011, and made a part of these Minutes. He indicated the matter is related to the previous request, CU-655B.

*After discussion, Mr. Peregrine moved, seconded by Mr. Siepmann, and carried unanimously for approval, as conditioned in accordance with the “Staff Report and Recommendation”, and with Condition No. 9 amended to read,*

- 9. Robert and Patricia Kern shall maintain adequate easement(s) through their lands to be used for ingress and egress to the principal residence on the Bosman's property. An Access/Easement Agreement shall be recorded with the Waukesha County Register of Deeds office.**

***The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.***

- **CU-1543 (Scott McCormick) Town of Genesee, Section 12**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 16, 2011, and made a part of these Minutes. He pointed out the location of the property at W289 S2536 Road DT in the Town of Genesee on the aerial photograph and indicated the request is for after-the-fact approval of land-altering activities.

Mr. Fruth explained the petitioner is proposing to obtain after-the-fact approval for the construction of a wildlife pond in the area of the property designated as wetland. In 2008, the petitioner discussed his interest in constructing a pond with staff members of the Wisconsin Department of Natural Resources (WDNR) and the Waukesha County Planning and Zoning and Land Resources Divisions. The petitioner was given advice on the location and design of the pond and was informed that permits were required. In April 2011, the WDNR and Waukesha County were informed that the petitioner constructed the pond without obtaining the necessary permits. The petitioner was notified by the Waukesha County Planning and Zoning Division that the land altering activities, which exceed 15 cubic yards, require a Conditional Use Permit from the Town and County. He immediately applied for the after-the-fact permits and installed silt fence and hay bales on the down slope side of the pond.

The pond is approximately 3 ft. deep and 60 ft. x 30 ft. in area. It is located in a wetland area which had been infested with reed canary grass, an invasive plant species. The area of disturbance is approximately 1,800 sq. ft. and approximately 200 cubic yards of spoil material was removed from the wetland to create the pond. The petitioner temporarily stockpiled the spoil material adjacent to the pond within the wetland. He has since been notified that filling of a wetland is illegal and has relocated the fill adjacent to the residence. The petitioner created planting beds behind the residence and southwest of the driveway. He also filled in some low spots on the property. No adverse drainage should be caused on adjacent properties as a result of the fill activities. The WDNR has requested that the petitioner create 8:1 side slopes on the edge of the pond and that the pond not exceed five (5) ft. in depth. The petitioner has agreed to modify the side slopes and has stated that he will not increase the size of the pond as a result. Some of the dredged material may need to be placed back into the pond to accomplish the 8:1 side slopes. The petitioner is proposing to seed the disturbed areas upon completion of the project. Permits have been obtained from the Army Corps of Engineers, WDNR and the Land Resources Division. The primary conditions the Planning and Zoning Division Staff have affixed are that a more detailed plan be supplied, including specifying the 8:1 slope and the maximum 5 ft. depth, as the plan that was provided in association with the application is very basic and contains insufficient detail.

***After discussion, Mr. Ruf moved, seconded by Mr. Siepmann and carried unanimously for approval, as conditioned, in accordance with the "Staff Report and Recommendation". The approval of this request, will allow the petitioner a reasonable use of his land and meets the intent and purposes of all County Ordinances.***

- **SCU-839A (North Lake Sand and Gravel) Town of Merton, Sections 9, 10 and 16**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 16, 2011, and made a part of these Minutes. He pointed out the location of the property at W312 N7881 Kilbourne Rd. in the Town of Merton on the aerial photograph and indicated the request is for a 10-year renewal of the Town's Conditional Use Permit, to obtain a Conditional Use Permit under the Waukesha County Shoreland and Floodland Protection Ordinance, to quarry up to 100 ft. from Kilbourne Road and to modify the inspection notification process.

Mrs. Tilley explained this matter came to the attention of the County when the petitioner went before the Town for their 10 year Conditional Use renewal. At that time it was observed that the active quarry operation had extended into the Shoreland area so the petitioner also was required to have a permit from the County. Mr. Fruth remarked there were very few changes from the previous approval and those changes are bolded in the Staff Report. The most significant change is a request for a 100 ft. setback from the portion of Kilbourne Rd. between the conveyor crossing and the “limits of quarry” line as shown on the Restoration Plan. Under the County’s provisions, a 200 ft. setback is usually required, but a lesser setback can be requested. He noted that part of the historic quarry area is already within 100 ft. of Kilbourne Rd. The mining activity dates to the early 1900’s and the Town did not require a Conditional Use until the 1980’s, so this will be the 2<sup>nd</sup> 10 year renewal with a report going to the Town annually. Mr. Fruth then gave a brief overview of the Reclamation Plan that is on file with the Waukesha County Land Resources Division.

Mrs. Haukohl questioned the direction of the site drainage and if the North Lake Management District was involved. Mrs. Tilley responded that ultimately drainage would go into the Oconomowoc River and then into North Lake. Mr. Fruth stated that at the public hearing the Management District did express some concerns regarding spill containment. Mr. Halquist indicated there is a Spill Containment Plan and that it will be submitted. There were also some questions raised concerning private wells. Mr. Fruth stated there were only four private wells that were identified by SEWRPC as being potentially impacted by the quarry and there are provisions in the Conditional Use that allow for those owners to be compensated in the form of deepened wells or an alternative source of water at the responsibility of the quarry owner. Another condition requires the Town Engineer to provide documentation that the well testing is in order. Mrs. Tilley added that a representative of the North Lake Management District stated they did testing in the early 1990’s, when the quarry was first permitted and found no negative impact, so they have not tested as much over the years.

Mrs. Haukohl expressed concern that the expansion of the quarry may create noise problems. Mr. Fruth replied that along Kilbourne Road, the quarry operation is well insulated. Mr. Mitchell noted that at the public hearing, a neighbor indicated North Lake Sand and Gravel was a good neighbor and thought the existing berms did a good job of helping with noise abatement. Mrs. Haukohl asked if there were problems with fugitive dust. Mr. Fruth replied those concerns are addressed in Conditions No. 2, 3, and 4.

*After discussion, Mr. Peregrine moved, seconded by Mr. Kolb, and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **PO-11-MRTT-1 (North Lake Sand and Gravel) Town of Merton, Sections 9, 10 and 16**

Mr. Fruth presented the “Staff Report and Recommendation” dated June 16, 2011, and made a part of these Minutes. He indicated the matter is related to the previous request, SCU-839A.

*After discussion, Mrs. Haukohl moved, seconded by Siepmann, and carried unanimously for approval, as conditioned, in accordance with the “Staff Report and Recommendation”. The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **SCU-1544 (Terra Tec Landscapes for Eric and Dawn Haertle) Town of Merton, Section 27**

Mr. Fruth presented the “Staff Report and Recommendation” dated June 16, 2011, and made a part of these Minutes. He pointed out the location of the property at W303 N5888 Monclair Rd. in the Town of Merton on the aerial photograph and indicated the request is for land altering activities associated with the construction of several landscape berms.

Mr. Fruth stated that at the Town Plan Commission meeting, a Commissioner questioned the petitioner as to whether the proposed driveway could traverse the septic field. John Erdmann, representing the owner, stated that the Environmental Health Division had approved the proposal to place the driveway over the septic field; however, Staff has since been advised by the Environmental Health Division that such approval was not obtained. Mrs. Barrows updated the Commission on the request. She stated a letter had just been received from Herr, the septic system installers, that the system is already installed. Herr claims that on other projects they have received individual site design approval from the State to put driveways over septic fields, but they have not received approval for this particular job. They have suggested to the owners that they could apply to the State for approval. If individual site approval from the State is received, the Environmental Health Division has agreed to allow the driveway to traverse the septic site; however, currently they are not allowed to do so per the component manual Com 83. The petitioner, Terra Tec, has indicated they will be applying to the State today and it takes about three weeks to get approval. Terra Tec submitted a revised plan at the meeting which placed the driveway outside of the septic field and the berms outside of the Environmental Corridor. They are now asking for approval of the revised plan knowing they may go back to trying to put the driveway over the septic field. Mrs. Barrows requested that the condition be modified to allow the driveway placement to be over the septic field if individual site approval is received by the State. Basically, they are looking for approval of two possible driveway locations.

Mr. Peregrine asked what portion of the driveway was impacted by the septic field. Mrs. Barrows responded it was the east end. Mr. Fruth presented both plans that had been submitted by the petitioner and indicated where the driveway and berms would be on both plans. Mr. Erdmann explained it is the asphalt portion of the driveway, which crosses the driveway that is in question. What they are trying to do now is continue with the pouring of the concrete up against the garage and the circle around the front entry way, so they can install the front walks and the sidewalk to the accessory door. He pointed out the portion of the plans that were identical and stated that approval of either plan would allow them to proceed with a large portion of the concrete work. Several Commissioners commented that they did not see why keeping the driveway out of the septic area or the PEC should present a hardship. Mr. Erdmann replied the owner felt the location of the driveway, off the road, may present a safety problem for her children with cars coming around a curve. Mr. Goodchild commented that it is not a public road and is basically just used by a neighbor.

Chairman Goodchild asked if the County regulates hard surfaces over septic sites or do they defer to the State? Mr. Fruth replied he did not know how Environmental Health's Ordinance addressed such scenarios in general, however in this case, the Environmental Health Division indicated a willingness to honor the State's decision, and if the State approved it they would also allow it. Mrs. Barrows commented the rule is that the soils cannot be compacted and traffic over a driveway is considered compaction. Chairman Goodchild commented that without actual approval from the State, he was reluctant to approve the original plan. Several Commissioners agreed with him. Mr. Erdmann stated they are not asking for approval of the original plan. They are asking for approval of the plan that was just submitted that relocates the driveway around the outside of the septic system. Mrs. Barrows reminded him that if the Plan Commission approves this plan, he cannot revert to the original plan without receiving County approval. He will need to reapply. Mr. Erdmann responded that they intend to apply to the State for approval and if individual site approval is received, they will reapply. Mr. Fruth commented that the proposal before the Commission is relative to the earth altering activity and the berms. However, the berms positions are determined by the driveway, so if the driveway location changes so do the berms.

Mrs. Haukohl stated she does not understand the State's standing on whether they allow driveways over septic fields; however she wished to know if the County has ever approved them? Mrs. Barrows replied the County Environmental Health Division does not review driveway construction, they review septic systems. It is just that the compaction of soils is prohibited. Once the permit is issued and the septic system is installed, the Environmental Health Division does not go out and inspect the location of a driveway; so it can happen.

*Mrs. Haukohl moved, seconded by Mr. Mitchell, for approval, as conditioned, in accordance with the "Staff Report and Recommendation with Condition No. 2 amended to read:*

- 2. The Landscape Development Plan prepared by Terra Tec Landscapes, Inc. and submitted to the Waukesha County Planning and Zoning Division on June 10, 2011 shall be modified so that the driveway is located outside of the septic field and outside of the PEC. The berms shall be located outside of the PEC. The revised plan shall be reviewed and approved by the Town of Merton and the Waukesha County Planning and Zoning Division Staff.*

Mr. Peregrine asked if it was up to the County to protect the landowner from compacting his septic field, without the benefit of a specific ordinance or do we have to allow it if the State approves it. Mrs. Haukohl felt the County could be more restrictive than the State and that it is our responsibility to make good land decisions. Mr. Fruth responded that because this is a Conditional Use, it is important to consider all aspects of the property and the details related to what is being proposed. The berm locations are related to the driveway and to ignore the issue, knowing it may have a negative impact on the land owner or future owners would not be a responsible decision. However, if the petitioner were not proposing to construct the berms, this matter would not require a Conditional Use and the driveway construction would not necessarily be directly monitored. Mr. Siepmann commented he felt this is not a land use decision; it is a functional engineering decision. He believed we should leave these decisions to the experts and not second guess them. If the experts feel this system will function correctly, we should abide by their decision. Chairman Goodchild commented that the petitioner is free to go to the State and apply for the approval, and if the petitioner wishes to reapply, it will allow time for the Environmental Division to review the State report and for the Staff to prepare a recommendation. The Commission could then make a decision based on that report. It would be premature to put the alternate approval in this motion.

*The motion to amend passed unanimously.*

*Mr. Siepmann moved, seconded by Mr. Ruf, for approval, as conditioned, in accordance with the "Staff Report and Recommendation with Condition No. 2 amended to read:*

- 2. The Landscape Development Plan prepared by Terra Tec Landscapes, Inc. and submitted to the Waukesha County Planning and Zoning Division on June 10, 2011 shall be modified so that the driveway is located outside of the septic field and outside of the PEC. The berms shall be located outside of the PEC. The revised plan shall be reviewed and approved by the Town of Merton and the Waukesha County Planning and Zoning Division Staff.*

*The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

- **CS-1007C (Schowalter Revocable Trust) Town of Oconomowoc, Section 12**

Mr. Fruth presented the "Staff Report and Recommendation" dated June 16, 2011, and made a part of these Minutes. He pointed out the location of the property in Section 12, in the Town of Oconomowoc on the aerial photograph and indicated the request is for approval of a lot re-configuration resulting in the creation of a "flag" lot.

Mr. Fruth stated the subject parcel is proposed as part of a two lot Certified Survey Map that has frontage on both Norwegian Rd. and Petersen Rd. The petitioner is requesting a reconfiguration of the lots, combining the western portion of Lot 2 with Lot 1. The proposed reconfiguration would increase the size of Lot 1 to 6 acres and decrease the size of Lot 2 to 9 acres. It would also eliminate the road frontage along Norwegian Road from Lot 2, leaving a narrow strip of land as the only access connecting the main portion of Lot 2 to Petersen Road. Because the strip of land is short of the 150 ft. width requirement of the R-1 District, proposed Lot 2 is regulated as a lot that does not abut a public road and requires approval from the Town Plan Commission and from the Waukesha County

Park and Planning Commission. The Town approved the request and has recommended that the Town Engineer work with the adjacent property owner to the east and the owner of Lot 2 to facilitate a driveway that does not create any adverse drainage. The Planning and Zoning Division Staff did not feel this constituted a radical change to the original configuration and is recommending for approval, in accordance with the Town's conditions.

***After discussion, Mr. Ruf moved, seconded by Mr. Siepmann for approval, as conditioned, in accordance with the "Staff Memorandum".***

Mrs. Haukohl noted that in the Staff Recommendation there is a paragraph that states the Town approved the map with the "additional condition that a restriction.....does not adversely impact drainage." She questioned why is this condition was not included with the conditions of approval. Mr. Peregrine explained the "Proposed Certified Survey Map – Exhibit B" was drawn by the surveyor on May 10, 2011 and because the Town Plan Commission made the recommendation at the June 6<sup>th</sup> meeting, the statement was not on the map or in the Town Planner report. The surveyor has not had a chance to correct the Certified Survey Map yet. She recommended because the condition is not yet on the face of Certified Survey Map or in the Town Planners Report, it should be added as a condition of our approval.

Mr. Fruth stated the Town Highway Superintendent has approved a drive location in this area. There is a condition in the 2004 rezone file that states "The Town Engineer must review and approve all proposed driveway accesses prior to installation and a statement as to this condition must be placed on the face of each Certified Survey Map and any conditions imposed by the Town Engineer shall be complied with prior to issuance of any Building Permits". This condition does not address coordination with the adjacent owner, so if the Commission wanted to add the condition, it would be appropriate to do so now.

***After further discussion, Mrs. Haukohl moved, seconded by Mr. Mitchell to amend Condition No. 1 to read:***

- 1. All conditions placed by the Town of Oconomowoc Plan Commission on their approval of the Certified Survey Map must be complied with. This will include a requirement that a restriction must be placed on the Certified Survey Map indicating that prior to the construction of a driveway on Lot 2, the Town Engineer shall meet with the adjacent neighbor to the east and the owner of Lot 2 to review and approve the driveway design and method of installation to ensure that the driveway on Lot 2 does not adversely impact drainage.***

Mr. Schowalter, the property owner, questioned why there were more restrictions being placed on the new configuration. He commented that when the Certified Survey Map was created four years earlier, it was never restricted to say that the only access to the property would be from Norwegian Road. The Commission explained because this re-configuration is creating a flag lot and Lot 2 will no longer have access from both roads, approvals are required. Mr. Schowalter responded that when the lot is developed, it will be subject to reviews regarding drainage, landscaping, etc., so again, why should the approval be more restrictive than when the original division was approved.

Mr. Fruth replied the Town Highway Superintendant and Engineer would have been responsible for approving a driveway and it is unknown whether they would have approved a driveway at the subject location on Peterson Road if Norwegian Road was unavailable. Because a flag lot is being proposed, conditions can be placed on the approval. Chairman Goodchild responded that from looking at the topo's it appears that any driveway built on the flag portion of the lot could create some drainage problems if not done properly.

Mr. Robert Schmidt, the neighbor to the east, expressed his concern regarding drainage. He presented pictures of flooding on his property created by drainage in the area of the proposed driveway. He asked that a condition be placed on the Certified Survey Map regarding any driveway construction to ensure it is designed properly and there would be no adverse drainage onto his property.

*The motion to amend Condition No. 1 passed unanimously.*

*After discussion, Mr. Peregrine moved, seconded by Mrs. Haukohl, and carried unanimously for approval, as conditioned, in accordance with the "Staff Memorandum, with Condition No. 1 amended to read:*

- 1. All conditions placed by the Town of Oconomowoc Plan Commission on their approval of the Certified Survey Map must be complied with. This will include a requirement that a restriction must be placed on the Certified Survey Map indicating that prior to the construction of a driveway on Lot 2, the Town Engineer shall meet with the adjacent neighbor to the east and the owner of Lot 2 to review and approve the driveway design and method of installation to ensure that the driveway on Lot 2 does not adversely impact drainage.*

*The approval of this request, will allow the petitioners a reasonable use of their land and meets the intent and purposes of all County Ordinances.*

**ADJOURNMENT**

*With no further business to come before the Commission, Mr. Kolb moved, seconded by Mr. Peregrine to adjourn at 2:25 p.m.*

Respectfully submitted,

*Pat Haukohl*

Pat Haukohl  
Secretary

PH:es